

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES PLAS SAMS,

Plaintiff,

v.

LEANNA LUNDY, *et al.*,

Defendants.

Case No. 1:23-cv-00172-HBK (PC)

ORDER GRANTING PLAINTIFF'S
RENEWED MOTION TO PROCEED IN
FORMA PAUPERIS AND REASSESSING
FULL FILING FEE

(Doc. No. 10)

Pending before the Court is Plaintiff's renewed motion to proceed *in forma pauperis* ("IFP") filed on August 7, 2023. (Doc. No. 10). Plaintiff, a former state prisoner, initiated this action while he was incarcerated. (Doc. No. 1). Although currently released, Plaintiff remains obligated to pay the full amount of the statutory filing fee. 28 U.S.C. § 1915(b)(1). As set forth in the Court's July 13, 2023 Order, the total amount that remains due towards the \$350.00 filing fee is \$350.00. (Doc. No. 9 at 3). Due to Plaintiff's release from custody, there is no inmate trust account from which periodic filing fees may be garnished and forwarded to the Court. Although the Ninth Circuit has yet to decide how a released prisoner who is obligated to "pay the full amount of a filing fee" under 28 U.S.C. § 1915(b)(1) may proceed IFP after he is released, "the Ninth Circuit [did note] 'even prior to the PLRA...district courts possessed authority under the non-PLRA-related provisions of § 1915 to require partial and/or installment payments.'" *Makoni v. Downs*, 2016 WL 7210403, at *3 (S.D. Cal. Dec. 13, 2016) (quoting *Putzer v. Attal*, 2013 WL

1 4519351, at *2 (D. Nev. Aug. 23, 2013)) (citing *Olivares v. Marshall*, 59 F.3d 109, 111 (9th Cir.
2 1995)).

3 Plaintiff's renewed motion to proceed IFP makes the showing required to proceed IFP, but
4 consistent with the Prison Litigation Reform Act, Plaintiff remains obligated to pay the full
5 \$350.00 statutory filing fee as set forth in 28 U.S.C. § 1915. Given Plaintiff's current financial
6 situation, the Court will not assess a monthly installment payment at this time. However, Plaintiff
7 remains responsible for the full \$350.00 filing fee and will be required to notify the Court as soon
8 as his financial situation changes.

9 Accordingly, it is **ORDERED**:

- 10 1. Plaintiff's renewed motion to proceed *in forma pauperis*, (Doc. No. 10) is GRANTED
11 and the Court assesses the full \$350.00 filing fee due to Plaintiff's former prisoner
12 status.
- 13 2. Plaintiff shall notify the Court within thirty (30) days of any change in his current
14 financial situation, i.e. if Plaintiff secures employment or is deemed eligible to receive
15 any form of federal or state financial assistance.
- 16 3. Plaintiff's failure to timely notify the Court of a change in his financial circumstances
17 will result in the undersigned recommending the district court dismiss this action.

18
19 Dated: August 23, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE